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SUMMARY RECORD OF THE 68th MEETING

Held at the Palais des Nations, Geneva
on Thursday, 11 March 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)

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GE.93-12241 (E)

The meeting was called to order at 11.05 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1993/7, 36-40, 41 and Add.1, 42-49, 75, 76, 79, 82, 86, 95, 99, 102 and 105; E/CN.4/1993/NGO/6, 8, 12, 16, 23, 26-28, 31 and 38)

1. Mr. MARAPANA (Sri Lanka) recalled that, in its statements on 23 February and 3 March 1993, his delegation had described to the Commission in detail the measures taken by his Government on a broad front to address issues relating to the human rights concerns raised by a variety of sources, including some in the Commission. The Government would continue to pursue its policy of openness and cooperation with regard to further measures for the promotion and protection of human rights. Collaboration with the United Nations, national institutions and interested Governments would continue to be an integral element of its policy. That openness and cooperation was derived from the democratic principle of the Government's accountability to its people and the electorate, and from Sri Lanka's international treaty obligations. The policy was seen as a means of sustaining and strengthening the democratic form of government which Sri Lanka had practised uninterruptedly for over half a century.

2. As the report of the Working Group on Enforced or Involuntary Disappearances indicated, the measures taken by his Government had led to considerable improvements in the human rights situation. In particular, the number of reported cases of disappearances had been greatly reduced. However, concern remained in particular areas. His Government shared the concerns voiced both nationally and internationally, which indeed constituted an integral part of its overall policy designed to restore normality in the face of extraordinary security problems generated by terrorist violence. Of particular concern was the continuing violence in the north and east. As long as the conflict continued, it was bound to create conditions in which the risk of human rights abuses could increase.

3. In that context, and having shared with the Commission information on what had been achieved so far, he wished to outline the main elements of the programme of work which his Government had undertaken to carry out during the current year. It amounted to a continuation of the process his delegation had described in some detail in its previous statements to the Commission, including those made under agenda items 10 and 12.

4. The programme of work would include, firstly, appropriate measures to ascertain the whereabouts of persons referred to in the reports of alleged disappearances which had been brought to the attention of the Government by the Working Group on Enforced or Involuntary Disappearances. Secondly, those responsible for disappearances and other human rights violations would be prosecuted. In order to dispel any doubts on the matter, he categorically stated that there existed in Sri Lanka no indemnity legislation which could serve to absolve any such persons from prosecution. Thirdly, there would be a comprehensive review of emergency legislation relating to arrest and detention, taking into account the recommendations of the study being carried out by the Human Rights Centre of the University of Colombo.

Fourthly, a consolidated version of all current emergency regulations would be published in order to promote public awareness. Fifthly, the authorities would continue to explore all avenues to build upon the important breakthrough achieved in the Parliamentary Select Committee with a view to arriving at a negotiated political solution to the problems relating to the north and east of the country. Sixthly, the Government would continue to implement the recommendations of the Working Group arising from its first visit to Sri Lanka in 1991, and would also give due consideration to the recommendations of the Working Group following its second visit in 1992.

5. As his delegation had stated previously, e.g. in its statement to the Commission at its forty-eighth session, the invitation to the Special Rapporteur on Summary or Arbitrary Executions to visit Sri Lanka still stood. His Government had also decided to consider favourably Sri Lanka's accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. In conclusion, he stated that his Government, in keeping with its consistent policy in the field of human rights, would continue to share with the members of the Commission, and other interested parties, information on progress made in that field.

7. The CHAIRMAN said that the Commission acknowledged the statement of the representative of Sri Lanka concerning the situation of human rights in his country. The Government of Sri Lanka had outlined a programme of work for the current year, consisting inter alia of taking appropriate measures to ascertain the whereabouts of alleged missing persons, prosecuting those found responsible for disappearances and other human rights violations, undertaking a comprehensive review of emergency legislation relating to arrest and detention, publishing a consolidated version of all current emergency regulations, and continuing to implement the recommendations contained in the 1991 report of the Working Group on Enforced or Involuntary Disappearances as well as considering the Working Group's recommendations in its 1992 report.

8. The intention of the Government of Sri Lanka to share with the Commission, and other interested parties, information on the progress made had been noted. The Government's efforts to arrive at a negotiated political settlement on the problems in the north and east of the country should be encouraged.

9. In accordance with the Sri Lankan delegation's request, the Chairman's statement would be included in the final report of the Commission, and the statement by the delegation of Sri Lanka would be given full coverage in the summary record of the meeting.

10. Mr. MUKENDI WA MULUMBA (Observer for Zaire), speaking on behalf of the Transitional Government of Zaire led by Mr. Tshisekedi Wa Mulumba, the Prime Minister elected by the National Sovereign Conference, thanked the Secretary-General of the United Nations, and, through him, all organs and Member States, for the concern they had shown for his country.

11. The resolution adopted on 10 March by the Commission, which had decided to terminate the confidential procedure and discuss in public session the item relating to human rights violations in Zaire, advanced the cause of human rights in that country. Zairian citizens had recently been living under increased tension, between the weary endurance of a dictatorial power and a desire for freedom and change. The situation had been exacerbated by the looting in September 1991 and January 1993. Those regrettable events - which were still continuing moreover - were helping to turn a potentially rich country into a ravaged territory reduced to international beggary. Another consequence was the constant violation of human rights: murders, assaults with deathly weapons of war, rape, encroachments on the rights to information and to freedom of expression, and violence of all sorts against judges and government officials, even including the detention, by the armed forces, of the Transitional Parliament. Such serious attacks against the rights of the person, so eloquently described by Mr. Moussali, the Secretary-General's Special Representative for Zaire, stemmed from an artificially maintained political blockage aimed at rendering the country ungovernable. Its perpetrator was none other than President Mobutu Sese Seko, who, despite having given his word, refused to engage in the democratization process.

12. For the Transitional Government, the solution to the human rights problems in Zaire required action to sustain the democratization process. The current tensions could be removed only through a dialogue between the various political actors. In that regard, the High Council of the Republic, which was acting as Parliament, had held some fruitful talks. Unfortunately, its efforts had been thwarted by the President of the Republic, who had recently organized an utterly unconstitutional "forum" which, by devious means, had replaced the legitimate authorities by bodies of his hirelings.

13. Thanks were due to the international community for the pressure it was exercising in order to hasten the establishment of the rule of law in Zaire. Those efforts were supported by the Zairian people, which urged all friendly countries to increase their pressure until the dictatorship had been abolished. Indeed, it was in the interests of the international community, and of the democracy-loving countries of Africa in particular, to denounce human rights violations openly. To draw a veil over the reality actually endured by the Zairian people would only reward the perpetrators of the violations in question. The Commission should make public all the documents relating to Zaire that had been studied under the confidential procedure. In addition, the international community should come to the aid of democracy in the country by setting up a constant public monitoring procedure through a special representative appointed for that purpose. The Transitional Government thanked France, therefore, for its proposal to that effect, which it warmly supported.

14. Despite the difficulties, the Transitional Government reaffirmed its faith in the democratic ideal. The reported violations of human rights were merely the manifestation of dictatorial forces which refused to recognize majority law and the people's legitimate aspirations. The Government thus needed the support of all peace-loving and freedom-loving States in order to pursue the democratization process by means of a constitutional referendum and genuinely free elections; United Nations assistance was likewise necessary to enable such action to succeed. The Government of Zaire undertook to

collaborate closely with the advisory services of the Centre for Human Rights, and to discharge all the obligations undertaken pursuant to the various conventions. It was determined to progress towards the establishment of a State subject to the rule of law, so that Zaire could become a haven of peace and freedom.

15. The CHAIRMAN said that the Commission took note of the request, by the delegation of Zaire, that the documents relating to its country examined under the confidential procedure should be made public.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS ON AGENDA ITEMS 11 AND 12

Draft resolution E/CN.4/1993/L.76/Rev.1 (agenda item 11)

16. Mr. NASSERI (Islamic Republic of Iran) introduced, on behalf of its sponsors, the draft resolution on Documentation and appointments, two topics which the officers of the Commission had already had occasion to consider in the past.

17. The problem of documentation, taken up in part A of the text, was a complicated one. On the one hand, while the Secretariat did its utmost to satisfy the Commission's requirements, its efforts were frustrated by the avalanche of work confronting it, given that the length of reports usually went far beyond the 32-page limit established in General Assembly resolutions. Moreover, reports were often submitted too late for timely distribution and proper consideration by the Commission. On the other hand, the special representatives, special rapporteurs and independent experts were unable to start work until their mandates had been confirmed by the Economic and Social Council. The result, as far as the Commission was concerned, was that very few of the reports requested were available at the proper time.

18. Thanks to the efforts of concerned delegations, the sponsors had been able to prepare a draft resolution which took account of the various aspects of the problem and aimed at facilitating the work of the special rapporteurs, independent experts and the Commission's secretariat.

19. As for the appointment of special representatives, special rapporteurs and independent experts, dealt with in part B of the draft resolution, the sponsors' idea was that, while respecting the need to secure the services of persons of the highest standards of efficiency, competence and integrity, it was also important to make such appointments on the widest possible geographical basis. The Chairman was therefore requested to do his utmost to ensure that the existing situation was remedied. The text proposed was also the result of a compromise among the countries representing the different regions.

20. His delegation hoped that the draft resolution could be adopted by consensus.

21. Mr. ALFONSO MARTINEZ (Cuba) said he wished first of all to draw attention to an error in the list of sponsors of the original text (E/CN.4/1993/L.76) from which his country's name had been omitted. As for the new text, he would like the representative of the Islamic Republic of Iran to clarify operative paragraph 6 of part A.

22. Mr. KUEHL (United States of America) pointed out that, in the French text of part B, the word "remédier" was used in the second preambular paragraph and operative paragraph 1 in connection with the existing geographical imbalance. He did not think that that was a good translation of the words "addressing" and "addressed" used in the preambular paragraph and the operative paragraph, respectively, of the original English text.

23. Mr. HOURORO (Observer for Morocco) drew attention to an error in the list of sponsors, from which his country had been omitted.

24. Mr. LAPOUGE (France) said that, as the United States representative had rightly pointed out, the word "remédier" in the second preambular paragraph and in operative paragraph 1 of part B was not appropriate. If the delegation of the Islamic Republic of Iran did not object, he therefore proposed, in the first case, to use the words "de s'occuper de cette situation" and, in the second, "de façon à s'occuper du déséquilibre actuel".

25. Mr. NASSERI (Islamic Republic of Iran) said that operative paragraph 6 of part A, which the representative of Cuba wished to have explained, had not been in the text originally proposed in document E/CN.4/1993/L.76.

26. The idea of the sponsors of the revised text was that, to make it possible for reports to be submitted on time, their preparation should be able to start earlier. If, however, the Economic and Social Council did not approve the Commission's decision regarding a particular report, work on it would cease. It was clear that, at the institutional level, the Commission could not take decisions that were not subsequently confirmed by the Council.

27. Mr. ALFONSO MARTINEZ (Cuba) said that the paragraph in question had in fact an institutional significance in that it raised the question of relations between the Commission and its supervisory body, the Economic and Social Council. His delegation, which had been unable to take part in all the discussions on the draft resolution, remained convinced that decisions by the Commission on the mandates of special representatives, special rapporteurs, independent experts and working groups must necessarily be endorsed by the Council. It did not wish therefore to be included among the sponsors of the revised text before the Commission.

28. Draft resolution E/CN.4/1993/L.76/Rev.1 was adopted by consensus.

29. Mr. BLACKWELL (United States of America) said that his delegation shared the concerns of the sponsors of the draft resolution that had just been adopted and that it, too, believed that the reports of special rapporteurs, special representatives and independent experts should be submitted on time. It also believed that there were women and men in all parts of the world with the necessary competence, integrity and efficiency needed for appointment as special rapporteurs, independent experts or special representatives. It wished to stress, however, that nothing in the resolution adopted should be interpreted as requiring the establishment of regional quotas for the appointment of men and women to fulfil Commission mandates.

30. With regard to operative paragraph 5 of part A, his delegation also considered that additional resources should be allocated to the Centre for Human Rights and that they should come from the regular budget of the United Nations.

31. Mr. HYNES (Canada) said that his delegation had welcomed the opportunity to participate in the negotiations on the resolution just adopted, which was of crucial importance to the workings of the Commission on Human Rights. Concerning documentation, there was an obvious imbalance between the Secretariat's resources and its very heavy workload. If all concerned made a determined effort to follow the guidelines in the resolution, that should help to ease the strain. However, in the last analysis, the problem could be resolved only if steps were taken to provide the Centre for Human Rights with sufficient resources.

32. Concerning the appointment of special rapporteurs and similar mechanisms, it was important to emphasize that the paramount consideration must remain the competence of the individuals concerned and that the concern to involve people from all regions in the process must remain compatible with that requirement.

33. Ms. ATTAH (Nigeria) welcomed the adoption of the resolution. She believed that there were persons in all regions competent to take part in the Commission's work as special rapporteurs or independent experts. In addition, like other delegations, her own considered that the resolution should be implemented in such a way as to allow more women to participate in the Commission's work.

Draft decision E/CN.4/1992/L.83 (agenda item 11)

34. Mr. STROHAL (Austria) introduced the draft decision on the establishment of an emergency mechanism of the Commission on Human Rights.

35. At its forty-eighth session, the Commission had adopted resolution 1992/55, sponsored by more than 40 delegations, in which it had decided "in order to enable Member States to consider carefully the establishment of an emergency mechanism of the Commission on Human Rights ... to resume consideration of the proposed mechanism at its forty-ninth session". Several delegations had subsequently approached his own delegation suggesting that substantive consideration of the matter be postponed until after the World Conference on Human Rights. His delegation had recognized the force of the arguments adduced and had therefore decided not to propose substantive consideration of the matter at the current session. Instead, it was submitting draft decision E/CN.4/1993/L.83, in which the Commission was invited to resume its consideration of the question at its fiftieth session.

36. A number of delegations had recently raised substantive queries regarding the possible establishment of an emergency mechanism. To avoid any misunderstanding, therefore, his delegation had decided to shorten the text of its draft decision so as to make it purely procedural. Accordingly, it was replacing the original text by the following: "At its ... meeting on ... March 1993, the Commission, recalling its resolution 1992/55 of 3 March 1992 and the annex thereto concerning the proposal for the establishment of an emergency mechanism of the Commission on Human Rights, decided to postpone consideration of the proposal for an emergency mechanism of the Commission on Human Rights to its fiftieth or subsequent session". His delegation hoped that the members of the Commission would adopt the draft decision, which had been revised so as to take account of the views of all the members of the Commission.

37. Mr. KHOURY (Syrian Arab Republic) said that the title of the draft decision should be in keeping with the body of the text. He therefore thought that "Consideration of the proposal to establish an emergency mechanism of the Commission on Human Rights" would be a more appropriate title.

38. Mr. STROHAL (Austria) said that the title proposed by his delegation was identical with that of resolution 1992/55 and that, for the sake of continuity, it would prefer to retain it.

39. Mr. MALHOTRA (India) said that, if the delegation of Austria had not decided to revise the draft resolution, the members of the group of non-aligned countries and those of the group of Asian countries would have asked for its withdrawal. To some extent, it duplicated draft resolution E/CN.4/1993/L.120, proposed by the Chairman of the Commission. In view of the change that had been made, his delegation was able to accept the draft decision, which postponed consideration of the matter to a later date.

40. Mr. QADER (Bangladesh) said that, like the other members of the group of non-aligned countries and the group of Asian countries, his delegation was unclear about the reasoning behind the draft decision. However, since the delegation of Austria had agreed to revise its proposal, his own delegation could, like others, live with the new version. He would, however, like to make a last appeal to the Austrian delegation to withdraw its proposal in a spirit of compromise.

41. Mr. ALFONSO MARTINEZ (Cuba) said that, while he would have preferred the Austrian delegation to withdraw its draft resolution, the text as it stood seemed to meet the concerns of his own delegation. As for the title, he agreed with the Syrian delegation that it should be brought into line with the content of the text actually proposed and not with the resolution adopted at the Commission's forty-eighth session. It was, moreover, his delegation's understanding that consideration of the question would be deferred to the fiftieth or later session of the Commission and not to its fiftieth or following session.

42. Mr. MALHOTRA (India) said that the Cuban delegation's clarification of the words "or subsequent session" was highly important and should be borne in mind by the Commission.

43. Mr. NASSERI (Islamic Republic of Iran) said that his delegation, too, had been opposed to draft decision E/CN.4/1993/L.83 as originally worded but was prepared to accept it as revised by the Austrian delegation. He also supported the Syrian proposal concerning the title of the draft resolution.

44. Mr. DEWARAJA (Sri Lanka), having thanked the Austrian delegation for its efforts to arrive at a generally acceptable text, said that his delegation was prepared to accept the new version. It also supported the change in the title proposed by the Syrian delegation.

45. The CHAIRMAN pointed out that the Syrian delegation had not formally proposed a change in the title of the draft. It had merely made a suggestion which had not, in fact, been accepted by the Austrian delegation.

46. Mr. GANAPATHY (Malaysia) associated his delegation with the consensus that appeared to be emerging on the revised text of draft decision E/CN.4/1993/L.83. In view of what the Chairman had said, his delegation formally proposed that the title of the draft resolution be changed in line with the Syrian delegation's suggestion. It also proposed that the last part of the text should be amended to read "to postpone consideration of the proposal for an emergency mechanism of the Commission on Human Rights to its fiftieth session or a subsequent session".

47. Mr. YOUNIS KHAN (Pakistan), Mr. PANG SEN (China), Ms. ATTAH (Nigeria) and Mr. BANYIYEZAKO (Burundi) said they agreed with the views expressed by previous speakers on draft decision E/CN.4/1993/L.83. Although it might duplicate draft resolution E/CN.4/1993/L.120, they were prepared to adopt it in its revised form. In particular, they supported the two amendments formally proposed by the representative of Malaysia and appealed to the Austrian delegation to accept them.

48. Mrs. LE FRAPER DU HELLEN (France) said she wondered whether the concern expressed by various delegations might not be met by entitling the draft: "Question of the establishment of an emergency mechanism of the Commission on Human Rights".

49. Mr. ZODIATES (Cyprus) said that his delegation, which had sponsored the draft decision on the same matter adopted by the Commission at its forty-eighth session, was prepared to support the new draft decision presented by the delegation of Austria, in either its original or its modified form.

50. Mr. ALFONSO MARTINEZ (Cuba) said that the title proposed by the French delegation might give the impression that the emergency mechanism in question had already been established, whereas what was involved was a proposal to be discussed by the Commission. For that reason he preferred the wording proposed by the Syrian delegation.

51. Mr. STROHAL (Austria) said he wished to make it clear to delegations which had expressed doubts about the need for the draft decision in so far as it might duplicate draft resolution E/CN.4/1993/L.120 on the procedure for special sessions of the Commission, that such was not the case, as special sessions were only one of the possible responses to an emergency situation. He was, however, prepared, in a spirit of compromise, to accept the proposed amendments.

52. Draft decision E/CN.4/1993/L.83, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1993/L.105/Rev. 1 (agenda item 11)

53. Mr. STROHAL (Austria) said that the revised version of the draft resolution was the outcome of numerous constructive consultations between various delegations, and that the Commission should be able to adopt it.

54. The CHAIRMAN announced that the delegation of Japan and the Observer for Zimbabwe wished to become sponsors of the draft resolution.

55. Draft resolution E/CN.4/1993/L.105/Rev.1 was adopted without a vote.

Draft resolution E/CN.4/1993/L.120 (agenda item 11)

56. The CHAIRMAN, introducing draft resolution E/CN.4/1993/L.120, recalled that, in 1992, the Commission had held two special sessions without having any procedure to regulate them. The purpose of that draft resolution, which had been the subject of very extensive consultations, was to establish such a procedure.

57. Draft resolution E/CN.4/1993/L.120 was adopted without a vote.

58. Mr. MALHOTRA (India) said that, while joining in the consensus on draft resolution E/CN.4/1993/L.120, his delegation wished to enter reservations on paragraphs 7 and 8 of the annex thereto. They were extremely vague and did not, for example, say who would be responsible for preparing a report on the matter occasioning the convening of a special session, or by which of the bodies mentioned such a report would be considered if it had not been considered at the special session. His delegation wished those reservations to be included in the summary record, as that lack of clarity might subsequently give rise to difficulties.

59. Mr. HELLER (Mexico) welcomed the unanimous adoption of the draft resolution, which filled a gap. With regard to draft resolution E/CN.4/1993/L.83, that had been adopted previously, his delegation thanked the delegation of Austria for its initiative and expressed appreciation for its spirit of compromise, which had made it possible to arrive at a text reflecting the views of all delegations.

60. Mr. HYNES (Canada) said that the consensus reached on draft resolutions E/CN.4/1993/L.83 and L.120 did not mean that the questions covered could not be discussed at the World Conference on Human Rights in June 1993. His delegation, for its part, was ready to discuss them with all interested delegations, and particularly the Austrian delegation.

61. Mr. STROHAL (Austria) thanked the members of the Commission for the spirit of cooperation they had shown. He drew attention to the first line of paragraph 8 of the annex to draft resolution E/CN.4/1993/L.120, that had been adopted, where the figure 6 should be replaced by the figure 7. As the representative of Canada had said, discussions should continue on means of enhancing the effectiveness of the Commission and enabling it to react quickly in emergency cases and the World Conference on Human Rights in Vienna would provide an excellent opportunity for such discussions.

The meeting was suspended at 12.35 p.m. and resumed at 12.55 p.m.

Draft resolution E/CN.4/1993/L.81/Rev.1 (agenda item 12)

62. Mr. ESPER LARSEN (Observer for Denmark), introducing the revised version of the draft resolution on the situation in East Timor, recalled that the States members of the European Community and the other sponsors of the draft resolution had, as at the preceding session, been concerned to follow developments in the human rights situation of the population concerned. At the forty-eighth session, it had proved possible to reach consensus on a statement by the Chairman in which the Commission deplored the violent

incident of 12 November 1991 and welcomed the measures taken by the Indonesian Government to inquire into the incident and identify those responsible. The Commission had also asked the Indonesian Government to facilitate the access to East Timor of humanitarian and human rights organizations, and to take steps to improve the human rights situation in general.

63. While taking note of the steps taken by the Indonesian authorities to remedy the situation, the sponsors of the draft resolution regrettably concluded that, according to information from governmental and non-governmental sources, the Indonesian Government had not acted sufficiently energetically to identify and prosecute those responsible for the acts of violence of 12 November 1991, and that, in general, the human rights situation had not improved. The States members of the European Community and the other sponsors of the draft resolution before the Commission had held lengthy negotiations with Indonesia in an endeavour to reach agreement on measures that the Indonesian authorities would be prepared to take, but it had not proved possible to reach a solution satisfactory to all parties. That was why draft resolution E/CN.4/1993/L.81/Rev.1 had been submitted to the Commission, and the sponsors hoped that it would contribute to securing greater respect for human rights in East Timor.

64. Mr. PACE (Secretary of the Commission) announced that the delegation of Guinea-Bissau had become a sponsor of the draft resolution.

65. Mr. DATO MUSA HITAM (Malaysia) moved, under rule 65 of the Commission's rules of procedure, that the Commission should take no decision on draft resolution E/CN.4/1993/L.81/Rev.1. In his view, the text of the draft resolution did not reflect the spirit of cooperation, which had made possible the adoption in 1992 of the statement read out by the Chairman on the situation in East Timor, and which was essential for the promotion and protection of human rights. His Government considered that, by taking no decision on the draft resolution, the Commission would help to create an atmosphere between the parties concerned conducive to the initiation of a fruitful dialogue under the auspices of the Secretary-General.

66. Mr. KHOURY (Syrian Arab Republic), Mr. QADER (Bangladesh), Mr. MALHOTRA (India), Mr. MOTTAGHI-NEJAD (Islamic Republic of Iran), Mr. MARUYAMA (Japan), and Mr. ELKARIB (Sudan) supported the Malaysian motion.

67. Ms. PARK (Canada) said that her delegation would have preferred that, at its current session, the Commission would have once again been able to adopt by consensus a statement by the Chairman on the situation in East Timor. It regretted that that had not proved possible and wished to become a sponsor of draft resolution E/CN.4/1993/L.81/Rev.1. It could thus not support the Malaysian motion.

68. Mr. LOCHTCHININE (Russian Federation), Mr. BLACKWELL (United States of America), Mr. BOUBACAR TOURE (Guinea-Bissau), Mr. RHENAN SEGURA (Costa Rica), Mr. DO NASCIMENTO (Angola) and Mr. DEMBINSKI (Poland) said that they were opposed to the Malaysian motion.

69. The CHAIRMAN put to the vote, in accordance with rule 65 of the rules of procedure, the motion by Malaysia that the Commission should take no decision on draft resolution E/CN.4/1993/L.81/Rev.1.

70. At the request of the representative of the United States of America, a vote was taken by roll-call on the Malaysian motion.

71. Bulgaria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bangladesh, China, Cuba, Gambia, India, Indonesia, Iran, Islamic Republic of, Japan, Kenya, Malaysia, Nigeria, Republic of Korea, Sri Lanka, Sudan, Syrian Arab Republic.

Against: Angola, Australia, Austria, Barbados, Brazil, Bulgaria, Canada, Chile, Costa Rica, Czech Republic, Finland, France, Germany, Guinea-Bissau, Mauritius, Netherlands, Poland, Portugal, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Zambia.

Abstaining: Argentina, Burundi, Colombia, Cyprus, Gabon, Lesotho, Mauritania, Mexico, Pakistan, Peru, Tunisia, Venezuela.

72. The Malaysian motion that the Commission should take no decision on draft resolution E/CN.4/1993/L.81/Rev.1 was rejected by 22 votes to 15, with 12 abstentions.

73. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/1993/L.81/Rev.1.

74. Mr. WIRYONO (Indonesia), speaking in explanation of vote before the vote on draft resolution E/CN.4/1993/L.81/Rev.1, recalled the Chairman's statement on the situation in East Timor which had been negotiated and adopted by the Commission by consensus in 1992. Indonesia had implemented most of the elements contained in the statement and would continue to take steps to redress the consequences of the incident that had occurred on 12 November 1991. At the current session, faithful to the spirit of cooperation that prevailed at the previous session, his delegation had agreed to enter into consultations with a view to achieving agreement on a new Chairman's statement. It would be logical to expect that the 1993 statement would be more limited in scope and that the Commission would express in it some appreciation of the measures taken by Indonesia, while drawing attention to the need for further measures. Unfortunately, despite the serious efforts made by his delegation, the consultations had not resulted in a consensus.

75. However, draft resolution E/CN.4/1993/L.81 had already been submitted and was drafted in very harsh and unfair language with respect to Indonesia; the same language was retained in the revised version currently under consideration (E/CN.4/1993/L.81/Rev.1). The draft resolution was an unfair one since it failed to recognize the action taken by Indonesia to implement the elements of the Chairman's 1992 statement and called on that country to take steps that went beyond the scope of that statement.

76. For example, operative paragraph 1 contained a sweeping and unsubstantiated affirmation of alleged continuing violations of human rights in East Timor. Such a serious accusation, made without regard for the facts of the current situation in East Timor, was completely unacceptable. Operative paragraph 2 took no account of the findings of the National Commission set up immediately after the incident of 12 November 1991 or the practical steps taken by the Government not only to identify but also to prosecute all those responsible for the incident, both civilians and soldiers. In operative paragraph 4, Indonesia was accused of having treated some of those responsible more harshly by imposing more severe sentences upon them, whereas the trials had been conducted in strict accordance with the law.

77. Operative paragraph 8 gave the impression that Indonesia had done nothing to implement the recommendations of the Special Rapporteur on questions related to torture, whereas it had taken various steps in accordance with those recommendations and had officially informed the Special Rapporteur of them. The steps included measures to punish law enforcement officials who practised torture and the introduction of a rating system for police officers together with intensive retraining courses for them. Operative paragraph 9 gave the impression that Indonesia was unwilling to cooperate with the Commission or to invite special rapporteurs to visit the country, as it had done in the past.

78. In operative paragraph 10, the Secretary-General was invited to consider transmitting to the Commission the full reports of his Personal Envoy, a provision which was inconsistent with the Envoy's initial terms of reference. In the view of his delegation, operative paragraph 12, which sought to retain the question of East Timor on the agenda, would benefit no one except the interests of a particular Member State. Those were some of the objections which compelled his delegation to reject the draft resolution as unfair and to appeal to the members of the Commission to vote against it.

79. Mr. STROHAL (Austria) said that his delegation supported draft resolution E/CN.4/1993/L.81/Rev.1 because it was concerned at the human rights situation in East Timor. Nevertheless, it thought that a negotiated statement would have been preferable since it was by continuing the dialogue with the Indonesian Government that respect for human rights in East Timor would most effectively be promoted.

80. At the request of the representative of Malaysia, a vote was taken by roll-call on draft resolution E/CN.4/1993/L.81/Rev.1 concerning the situation in East Timor.

81. The Syrian Arab Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Australia, Austria, Barbados, Brazil, Bulgaria, Canada, Chile, Costa Rica, Czech Republic, Finland, France, Germany, Guinea-Bissau, Mauritius, Netherlands, Poland, Portugal, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Zambia.

Against: Bangladesh, China, Cuba, Gambia, India, Indonesia, Iran, Islamic Republic of, Malaysia, Nigeria, Sri Lanka, Sudan, Syrian Arab Republic.

Abstaining: Argentina, Burundi, Colombia, Cyprus, Gabon, Japan, Kenya, Lesotho, Mauritania, Mexico, Pakistan, Peru, Republic of Korea, Tunisia, Venezuela.

82. Draft resolution E/CN.4/1993/L.81/Rev.1 was adopted by 22 votes to 12, with 15 abstentions.

The meeting rose at 1.30 p.m.